

**WINDELS MARX LANE & MITTENDORF, LLP**

156 West 56<sup>th</sup> Street

New York, New York 10019

(212) 237-1000

Charles E. Simpson (CES-2130)

Attorneys for Urban Communicators PCS

Limited Partnership, et al.,

Debtors-in-Possession

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

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:  
In re: : Chapter 11 Case  
: Nos. 98-B-47996  
URBAN COMMUNICATORS PCS LIMITED : 98-B-47997 and  
PARTNERSHIP, et al., : 98-B-10086 (REG)  
:  
Debtors. :  
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**DESIGNATION OF CONTENTS FOR INCLUSION IN  
RECORD ON APPEAL AND STATEMENT OF ISSUES ON APPEAL**

Urban Communicators PCS Limited Partnership, Urban Comm-Mid-Atlantic, Inc., and Urban Comm-North Carolina, Inc. (hereinafter referred to as "Appellants" or "Debtors"), in furtherance of Appellants' appeal from the Order and Decision of the Honorable Robert E. Gerber, United States Bankruptcy Judge, dated and docketed December 11, 2007, designates the following record and issues on appeal:

**I. STATEMENT OF ISSUES ON APPEAL AND STANDARD OF REVIEW**

(A) The standard of review for findings of fact is the "clearly erroneous" standard, as set forth in Fed. R. Bank. P. 8013.

(B) Issues of law are reviewed de novo. The issues presented on appeal are as follows:

- (i) Whether Gabriel held an oversecured claim in the chapter 11 case in light of the FCC's cancellation of the Debtor's PCS licenses on October 29, 1998?
- (ii) Whether the Communications Act of 1934 extinguished Gabriel's claim to the PCS licenses and/or proceeds of sale of same as collateral or security for its claim against the Debtor?
- (iii) In the event Gabriel's claim is deemed oversecured, is it oversecured:
  - (a) as of the Petition Date?
  - (b) from the date the FCC returned the PCS licenses to the Debtor? or
  - (c) from the date the Debtor realized "proceeds of sale?"

## II. DESIGNATION OF RECORD ON APPEAL

03/17/2005	<u>291</u>	Motion to Compel <i>Payment of Cash Collateral by Gabriel Capital L.P.</i> filed by David M. Friedman on behalf of Gabriel Capital Group. with hearing to be held on 3/24/2005 at 09:45 AM at Courtroom 621 (REG) Responses due by 3/22/2005, (Attachments: # <u>1</u> Exhibit A - Part 1 of 2# <u>2</u> Exhibit A Part 2 of 2# <u>3</u> Exhibit B# <u>4</u> Exhibit C# <u>5</u> Exhibit D# <u>6</u> Exhibit E) (Friedman, David) (Entered: 03/17/2005)
03/18/2005	<u>292</u>	Exhibits F through P from Docket Entry <u>291</u> filed by David M. Friedman on behalf of Gabriel Capital Group. (Attachments: # <u>1</u> Exhibit G# <u>2</u> Exhibit H# <u>3</u> Exhibit I# <u>4</u> Exhibit J# <u>5</u> Exhibit K# <u>6</u> Exhibit L# <u>7</u> Exhibit M# <u>8</u> Exhibit N# <u>9</u> Exhibit O# <u>10</u> Exhibit P) (Friedman, David) Modified on 4/4/2005 (Bush, Brent) (Entered: 03/18/2005)
03/22/2005	<u>293</u>	Statement <i>SUPPLEMENTARY EXHIBIT in Support of Motion of Gabriel Capital L.P. to Compel Payment of Cash Collateral</i> (related document(s) <u>291</u> , <u>292</u> ) filed by Robert M. Novick on behalf of Gabriel Capital Group. with hearing to be held on 3/25/2005 at 09:45 AM at Courtroom 621 (REG) (Novick, Robert) (Entered: 03/22/2005)
03/22/2005	<u>294</u>	<i>Opposition to the Motion of Gabriel Capital L.P. to Compel Payment Pursuant to 11 U.S.C. Sections 362(d) and 363(e) of the Bankruptcy Code</i> filed by Charles E. Simpson on behalf of Urban Communicators PCS Limited Partnership. with hearing to be held on 3/24/2005 at 09:45 AM at Courtroom 621 (REG) (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C) (Simpson, Charles) (Entered: 03/22/2005)

03/23/2005	<u>300</u>	Response / Reply of Gabriel Capital L.P. in Further Support of Its Motion to Compel Payment of Cash Collateral Pursuant to 11 U.S.C. 362(d) and 363(e) filed by David M. Friedman on behalf of Gabriel Capital Group. with hearing to be held on 3/24/2005 at 09:45 AM at Courtroom 621 (REG) (Friedman, David) (Entered: 03/23/2005)
03/23/2005	<u>301</u>	Objection to Claim of Gabriel Capital, L.P. filed by Charles E. Simpson on behalf of Urban Communicators PCS Limited Partnership. (Simpson, Charles) (Entered: 03/23/2005)

04/04/2005	<u>305</u>	Memorandum of Law in Support of the Undersecured/Unsecured Status of the Claim of Gabriel Capital, L.P. filed by Charles E. Simpson on behalf of Urban Communicators PCS Limited Partnership. (Simpson, Charles) (Entered: 04/04/2005)
04/04/2005	<u>306</u>	Memorandum of Law of Gabriel Capital L.P. in Support of Allowance of its Secured Claims with Postpetition Interest Computed at the Default Rate Specified in the Underlying Loan Documents, and in Further Support of its Motion to Compel Payment of Cash Collateral Pursuant to 11 U.S.C. 362(d) and 363(e) (related document(s) <u>296</u> , <u>304</u> , <u>291</u> ) filed by David M. Friedman on behalf of Gabriel Capital Group. (Friedman, David) (Entered: 04/04/2005)
04/04/2005	<u>307</u>	Declaration of Michelle L. Fivel in Support of the Memorandum of Law of Gabriel Capital L.P. in Support of Allowance of its Secured Claims with Postpetition Interest Computed at the Default Rate Specified in the Underlying Loan Documents, and in Further Support of its Motion to Compel Payment of Cash Collateral Pursuant to 11 U.S.C. 362(d) and 363(e) filed by David M. Friedman on behalf of Gabriel Capital Group. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C Part 1# <u>4</u> Exhibit C Part 2# <u>5</u> Exhibit D) (Friedman, David) (Entered: 04/04/2005)
04/04/2005	<u>308</u>	Declaration of Michelle L. Fivel in Support of the Memorandum of Law of Gabriel Capital L.P. in Support of Allowance of its Secured Claims with Postpetition Interest Computed at the Default Rate Specified in the Underlying Loan Documents, and in Further Support of its Motion to Compel Payment of Cash Collateral Pursuant to 11 U.S.C. 362(d) and 363(e) filed by David M. Friedman on behalf of Gabriel Capital Group. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C Part 1# <u>4</u> Exhibit C Part 2) (Friedman, David) (Entered: 04/04/2005)

04/04/2005	<u>309</u>	Declaration of Michelle L. Fivel in Support of the Memorandum of Law of Gabriel Capital L.P. in Support of Allowance of its Secured Claims with Postpetition Interest Computed at the Default Rate Specified in the Underlying Loan Documents, and in Further Support of its Motion to Compel Payment of Cash Collateral Pursuant to 11 U.S.C. 362(d) and 363(e) filed by David M. Friedman on behalf of Gabriel Capital Group. (Attachments: # <u>1</u> Exhibit D# <u>2</u> Exhibit E# <u>3</u> Exhibit F# <u>4</u> Exhibit G# (5) Exhibit H# <u>6</u> Exhibit I# <u>7</u> Exhibit J# <u>8</u> Exhibit K# <u>9</u> Exhibit L# <u>10</u> Exhibit M# <u>11</u> Exhibit N) (Friedman, David) (Entered: 04/04/2005)
04/04/2005	<u>310</u>	Declaration of Michelle L. Fivel in Support of the Memorandum of Law of Gabriel Capital L.P. in Support of Allowance of its Secured Claims with Postpetition Interest Computed at the Default Rate Specified in the Underlying Loan Documents, and in Further Support of its Motion to Compel Payment of Cash Collateral Pursuant to 11 U.S.C. 362(d) and 363(e) filed by David M. Friedman on behalf of Gabriel Capital Group. (Attachments: # <u>1</u> Exhibit O# <u>2</u> Exhibit P# <u>3</u> Exhibit Q# <u>4</u> Exhibit R# (5) Exhibit S# <u>6</u> Exhibit T# <u>7</u> Exhibit U# <u>8</u> Exhibit V# <u>9</u> Exhibit W# <u>10</u> Exhibit X) (Friedman, David) (Entered: 04/04/2005)
04/05/2005	<u>311</u>	Declaration / Supplemental Declaration of Michelle L. Fivel in Support of the Memorandum of Law of Gabriel Capital L.P. in Support of Allowance of its Secured Claims with Postpetition Interest Computed at the Default Rate Specified in the Underlying Loan Documents, and in Further Support of its Motion to Compel Payment of Cash Collateral Pursuant to 11 U.S.C. 362(d) and 363(e) filed by David M. Friedman on behalf of Gabriel Capital Group. (Attachments: # <u>1</u> Exhibit Y# <u>2</u> Exhibit Z# <u>3</u> Exhibit AA# <u>4</u> Exhibit BB# <u>5</u> Exhibit CC# <u>6</u> Exhibit DD) (Friedman, David) (Entered: 04/05/2005)
04/07/2005	<u>378</u>	Transcript hearing held on 4/7/05 filed by Veritext Company. (Ho, Amanda) (Entered: 03/23/2006)
10/21/2005	<u>340</u>	Memorandum of Law /Supplemental Memorandum of Law in Support of the Undersecured/Unsecured Status of Claim of Gabriel Capital L.P. filed by Charles E. Simpson on behalf of Urban Communicators PCS Limited Partnership. (Simpson, Charles) (Entered: 10/21/2005)

11/07/2005	<u>344</u>	Memorandum of Law <i>of Gabriel Capital L.P. in Reply to Debtors' Supplemental Memorandum of Law</i> filed by Robert M. Novick on behalf of Gabriel Capital Group. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2) (Novick, Robert) (Entered: 11/07/2005)
03/30/2007	<u>448</u>	Motion to Allow: <i>Renewed Motion of Gabriel Capital L.P. for Allowance of Post-Petition Contractual Interest on its Oversecured Claim</i> filed by Robert M. Novick on behalf of Gabriel Capital LP. with hearing to be held on 4/18/2007 at 09:45 AM at Courtroom 621 (REG) Objections due by 4/12/2007, (Attachments: # <u>1</u> Exhibit Transcript# <u>2</u> Exhibit Stipulation# <u>3</u> Exhibit Stipulation) (Novick, Robert) (Entered: 03/30/2007)
05/07/2007	<u>453</u>	Opposition /Debtors' <i>Opposition to Renewed Motion of Gabriel Capital L.P. for Allowance of Post-Petition Interest on Its Claim</i> filed by Charles E. Simpson on behalf of Urban Communicators PCS Limited Partnership. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B) (Simpson, Charles) (Entered: 05/07/2007)
05/09/2007	<u>454</u>	Reply to Motion / <i>Reply in Further Support of Renewed Motion of Gabriel Capital L.P. for Allowance of Post-Petition Contractual Interest on its Oversecured Claim</i> (related document(s) <u>448</u> ) filed by Robert M. Novick on behalf of Gabriel Capital Group. (Novick, Robert) (Entered: 05/09/2007)
05/24/2007	<u>456</u>	Transcript <i>Of Hearing Held On May 10, 2007 At 9:49 AM, Re: Motion To Allow: Renewed Motion Of Gabriel Capital L.P. For Allowance Of Post-petition Contractual Interest On Its Oversecured Claim</i> filed by Rand Transcript Service, Inc.. (Braithwaite, Kenishia) (Entered: 05/29/2007)

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12/11/2007	<u>496</u>	Decision and Order signed on 12/11/2007 on Gabriel's Entitlement to Post-Petition Interest. (related document(s) <u>291,448</u> ) (Blum, Helene) (Entered: 12/11/2007)
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Dated: New York, New York  
December 28, 2007

**WINDELS, MARX, LANE & MITTENDORF**

By: /s/ Charles E. Simpson  
**Charles E. Simpson (CES-2130)**  
**A Member of the Firm**

156 West 56th Street  
New York, NY 10019  
(212) 237-1000

Attorneys for Urban Communicators PCS Limited  
Partnership, et al., Debtors-in-Possession